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EXAMINER

FERNANDEZ, SUSAN EMILY

ART UNIT

PAPER NUMBER

1651

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ATTACHMENT TO ADVISORY ACTION

The response filed March 17, 2008 has been received. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior office action.

The amendment filed March 17, 2008, has not been entered since the new language in the proposed amendment requires extensive consultation of the specification to confirm support for the new language. Furthermore, the amendment would require a new search since the claims previously did not require that the formulation is applied directly or indirectly. Therefore, denial of entry of the proposed amendment is proper at this after-final stage of prosecution.

With respect to the new matter rejection over the recitation in claim 64 that the formulation is administered "1-10 applications a day," the arguments are found convincing and thus this specific recitation is not considered new matter. However, a new matter rejection must be maintained for the recitation in claim 64 of formulation administration at "six applications for about three minutes each." Example 1 is noted, and though the Example teaches intervals of three minutes for six applications, there is no teaching that the time period of each application is "about three minutes" each. Thus, claims 64 and 65 must be remain rejected under 35 U.S.C. 112, first paragraph for this reason.

To the extent the applicant's arguments are applicable to the claims as pending, the applicant's arguments regarding claim rejections under 35 U.S.C. 103 are not persuasive of error. Though the composition comprising trypsin also comprises theophylline, it is not clear that theophylline materially affects the basic and novel characteristics of the composition, nor has the

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applicant provided evidence to demonstrate this. In example 2 of SU 1685448, though regression of swelling was found with an increased amount of theophylline, it is also noted that the amount of trypsin had also been increased. Thus, it is not clear that the swelling regressed only because the amount of theophylline was substantially increased. Further still, as swelling is regressed, there is indeed regulation of removal (decrease) of the seborrheic keratosis condition. There is no recitation in the claims that the lesion itself is removed.

With respect to the teaching of occlusion for therapy in SU 1685448, it is respectfully noted that the claims recite “comprising” steps, and thus do not exclude other steps, including the presence of an occlusive dressing. The instant claims do not recite that the physiologically acceptable formulation cannot be applied along with an occlusive dressing.

With respect to Zaias, it is noted that Zaias is provided to show that DMSO cause extreme skin irritation, redness, itching and scaling which are not desirable effects, regardless of whether it is considered a carrier or not. Though Rawlings teaches administration of a trypsin-like enzyme for treatment of another skin treatment, it is provided to demonstrate that DMSO is not necessary for the application of trypsin to skin.

Finally, in regards to Burbach, though Burbach teaches trypsin concentrations other than those recited in the claims, it is respectfully noted that the selection of specific suitable trypsin concentration would have been an obvious matter of optimization on the part of the artisan. Moreover, the formation of lesions does not teach away from the claimed invention since Burbach uses different concentrations from the claimed invention.

Thus, the 35 USC 103 rejections of record must be maintained.

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No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUSAN E. FERNANDEZ whose telephone number is (571)272-3444. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leon B Lankford Jr/
Primary Examiner, Art Unit 1651

Susan E. Fernandez
Examiner
Art Unit 1651

sef